

BEFORE THE LOCAL BOUNDARY COMMISSION  
ALASKA DEPARTMENT OF COMMUNITY AND REGIONAL  
AFFAIRS

IN THE MATTER OF THE PETITION  
FOR CONSOLIDATION OF  
THE CITY OF FAIRBANKS AND  
FAIRBANKS NORTH STAR BOROUGH.

**BRIEF OF THE**  
**FAIRBANKS NORTH STAR BOROUGH IN**  
**OPPOSITION TO THE PROPOSED CONSOLIDATION**

## INTRODUCTION

The Petition in this proceeding proposes to consolidate the City of Fairbanks and the Fairbanks North Star Borough and to incorporate a new second class borough with service areas, including an Urban Service Area which would provide almost all of the current City functions by most of the current City employees.<sup>1</sup> The Fairbanks North Star Borough opposes this Petition because it would neither improve the delivery of services nor reduce their cost, and because it would diminish the level of self-government for City residents.

**The Fairbanks North Star Borough.** The Fairbanks North Star Borough was established in 1964. As a second class borough, it has only the legislative powers conferred by the legislature or by the voters. The Borough has a population of approximately 83,000 people and covers an area of approximately 7,361 square miles. Fairbanks and North Pole are the only two cities within the Borough. Exhibit 1.<sup>2</sup>

The Borough provides many local government services. These include education, parks and recreation, disaster planning and preparedness, animal control, library services, solid waste disposal (landfill), elections, public transportation, planning, platting and land use regulation, limited health and social services, child care assistance, enhanced 911 and other services. Emergency

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<sup>1</sup> For ease of reference throughout this brief, the proposed consolidated borough is referred to as the "Municipality" and the existing City of Fairbanks and Fairbanks North Star Borough are referred to as the City and Borough, respectively.

<sup>2</sup> The exhibits to the Borough's brief are in Appendix A.

medical services, economic development, and solid waste collection (transfer stations) are nonareawide borough powers.<sup>3</sup> Fire protection, road maintenance, street lights, water and sewer services are provided in some areas of the Borough by service areas. As of July 1, 2000, the Borough has 343 full-time equivalent employees (FTEs) and a budget of \$84.6 million dollars. (The Fairbanks North Star Borough School District receives \$32 million dollars of Borough funding.)

**The City of Fairbanks.** The City was incorporated in 1903. The residents believed that Fairbanks was sufficiently established and that they should be given the responsibility to provide for their own daily community functions. By a 75% majority vote, Fairbanks was incorporated on November 10, 1903. The population of the City of Fairbanks has now grown to approximately 32,000, and covers an area of 33.7 square miles. As a home rule municipality, the City has all legislative powers not prohibited by law or charter. It currently exercises the powers of law enforcement, fire protection, emergency medical services, economic development, street maintenance, building permits and inspections, certain health and social services, engineering, street lights and traffic signals, curbside solid waste collection, and business licensing. The City's 2000 budget includes 174 funded positions and totals \$22 million dollars.

**Petition for Consolidation.** On the eve of the City's centenary, Petitioners seek to dissolve the City of Fairbanks and the Fairbanks North Star Borough, and

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<sup>3</sup> Solid waste collection is also provided in the City of North Pole through a transfer of powers.

consolidate them with only minimal changes in the delivery of services and in City personnel.<sup>4</sup> The existing City government would be moved almost intact into the Borough administration as the "Urban Service Area." Residents will no longer live in the City of Fairbanks, the "Golden Heart City." Instead, they will call the "Urban Service Area" home.

Petitioners propose to create a service area for a population of 32,000 residents that would provide almost all of the numerous functions currently provided by the City. All assets, obligations and contracts of the City, including its Permanent Fund, would transfer to the consolidated Municipality. City residents would lose their home rule powers and their direct contact with an elected City Council. Consequently, the proposed consolidation would significantly reduce self-government in the new Urban Service Area, but would not result in cost savings or improvement in services. The costs of transition to a consolidated government are estimated to exceed \$5 million dollars.

Moreover, consolidation would have a significant negative impact on economic development funding. It will also negatively impact the ability to provide services if the proposed 10 mill initiative becomes law; the City and Borough governments will be better able to provide services as separate tax levying jurisdictions.

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<sup>4</sup> As petitioners note, the voters rejected attempts at unification in 1973 and 1987.

Finally, as discussed below, the Petitioners have not met the requirements for consolidation or overcome the statutory and constitutional preference of incorporated cities over the establishment of a new service area.

## **CONSTITUTIONAL STANDARDS FOR LOCAL GOVERNMENT IN ALASKA**

In 1955, the delegates to the Alaska Constitutional Convention set the course for a new approach to local government for what would be the State of Alaska. The centerpiece was a strong regional government called the borough whose boundaries would be determined by natural geographic and socio-economic factors. The goal was to have the minimum number of regional, local government units that would have the full range of municipal powers. These principles are reflected in several provisions of the Local Government Article of the Alaska Constitution. The first, and most obvious is found in Section 1 of Article X which states, in part,

The purpose of this article is to provide for maximum local self-government with a minimum of local government units. . .

Another provision of the Local Government Article that implements this purpose is Section 2 which provides that local government powers may be vested only in boroughs and cities and that only boroughs and cities may exercise the power of taxation. Thus, the delegates did not intend any special purpose governmental districts to exercise local government powers or levy taxes.

The delegates also recognized that there would undoubtedly be situations where areas within a borough require governmental services different from those of other areas. For this reason, the delegates provided in Section 5 of Article X that

boroughs could establish service areas to provide special services and authorize the levying of taxes or other charges within the service area to finance the service.

However, the second sentence of Section 5 of Article X of the Alaska Constitution reads:

A new service area shall not be established if, consistent with the purposes of this article, the new service can be provided by an existing service area, by incorporation as a city, or by annexation to a city.

Thus, the delegates to the Constitutional Convention provided that service areas should not be formed if the services needed could be provided through incorporation as a city. As the Alaska Supreme Court has held, "although the framers entertained the idea of unified local governments, they realized that the need for cities still existed." Keane v. Local Boundary Commission, 893 P.2d 1239 (Alaska 1995).

**CONSOLIDATION WILL NOT PROMOTE MAXIMUM LOCAL SELF-GOVERNMENT  
WITH A MINIMUM OF LOCAL GOVERNMENT UNITS**

As the Alaska Supreme Court stated in Keane, "Whether a service area or a city is established, another government unit is created." Merely changing the form of the City to a service area does not reduce the number of local government units or comply with Article X, Section 1 of the Alaska Constitution. Furthermore, consolidation does not comply with the requirement for "maximum local self-government."

The Petitioners propose to dissolve the City through consolidation and establish an Urban Service Area. Even if the proposed Urban Service Area is governed by an elected or appointed board as permitted by law,<sup>5</sup> the residents and property owners in that service area will not have "maximum local self-government." The service area board will not have the power to appropriate funds or levy taxes; only the Borough Assembly has the power to levy or authorize the levying of taxes in a service area or to appropriate funds.<sup>6</sup> All the board can do is request the Assembly to change the tax rate or appropriate funds. Thus, instead of being able to voice their concerns to one body (currently the City Council), residents will be forced to deal with two: both a service area board (or administrator) and the Borough Assembly.

The Borough Assembly has the concerns of 83,000 residents to consider, the majority of whom do not reside in the proposed Urban Service Area and do not have the services provided by that service area; for example, many Borough residents do not have public road maintenance and some do not have fire protection. The Borough Assembly has a full agenda dealing with the issues that concern all Borough residents, such as rezones and other land use issues, school construction, education funding, and other Borough services. Although there is no doubt that the Borough Assembly would do its best to listen to the needs and desires of the Urban

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<sup>5</sup> AS 29.35.460. "The assembly may provide for an appointed or elected board to supervise the furnishing of special services in a service area."

<sup>6</sup> AS 29.35.470: "The assembly may levy or authorize the levying of taxes, charges, or assessments in a service area to finance the special services. . ."



Service Area, the practical reality is that it would not and could not be their sole focus. A city, with a council, is better suited to govern an entity that provides many services. It is clear that under consolidation, the residents of the Urban Service Area would not have "maximum local self-government" but would instead have considerably less self-government.

**THE ALASKA CONSTITUTION PREFERS THE INCORPORATED CITY OF FAIRBANKS  
OVER ESTABLISHMENT OF AN URBAN SERVICE AREA**

As stated above, the second sentence of Section 5 of Article X of the Alaska Constitution reads:

A new service area shall not be established if, consistent with the purposes of this article, the new service can be provided by an existing service area, by incorporation as a city, or by annexation to a city.

The Alaska Supreme Court has interpreted this provision and AS 29.35.450(b) as preferring incorporation of a city over the creation of new service areas.

Whether a service area or a city is established, another government unit is created. If numerous service areas are set up supplying only one or two services each, there is the potential for an inefficient proliferation of service areas. In contrast, **once a city is established, it can provide many services, and other communities can annex to the city in the future. Although the framers entertained the idea of unified local governments, they realized that the need for cities still existed.**

. . .

**We also clarify that there is a statutory and constitutional preference for incorporation of cities over the establishment of new service areas.** We believe these to be reasonable and practical interpretations of the Alaska Constitution in accordance with common sense.

Keane, 893 P.2d at 1244 (emphasis added). The Court held that the constitutional barrier to an excessive number of government units does not prohibit the creation of them when they are necessary. In this case, a City is best suited to provide the number and variety of services listed in the Petition. Petitioners do not propose a service area to provide only one or two services; instead, almost all existing City services would be provided by the Urban Service Area in the same manner they are currently provided.

An examination of the Petition reveals very little duplication of services between the City and the Borough.<sup>7</sup> The Borough provides education, land use regulation, assessment and property tax collection, library, animal control, parks and recreation, child care assistance, and public transportation; the City does not. The City provides law enforcement, building inspections, engineering, business licenses and permits, and cemeteries; the Borough provides none of these services. Exhibit 2 is a chart showing the existing powers of the City and Borough exercised on an

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<sup>7</sup> The only functions provided by both entities are solid waste collection (although the City provides a higher level of service through curbside pickup), emergency medical services, some health and social services, and economic development. The City provides fire protection, street maintenance, and street lights, which the Borough only provides in service areas.

areawide, nonareawide and service area basis, and the powers proposed under consolidation. The only changes in areawide powers proposed by the Petitioners are solid waste collections at the transfer stations and maintenance of the Fairbanks Health Center.<sup>8</sup> The three nonareawide powers currently exercised by the Borough (emergency medical services, economic development and fireworks control) would remain nonareawide Borough powers, but would be exercised in the Urban Service Area. All the other services currently provided by the City would be exercised by the Urban Service Area.

Because the City provides many services, which Petitioners propose that the Urban Service Area continue to provide, and the Borough provides different services, it makes no sense to consolidate them from either a constitutional or a financial standpoint. If the City did not exist and residents desired the level of services proposed for the Urban Service Area, the Constitution mandates incorporation of a city rather than establishment of a service area. The same holds true when the issue is consolidation. Petitioners have not overcome the constitutional and statutory preference for cities over service areas.

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<sup>8</sup> The City and Borough currently fund the Fairbanks Health Center jointly. The Borough would also consider cemeteries an areawide power of the proposed Municipality, as they are available to all residents.

## **STATUTORY INCORPORATION STANDARDS**

A consolidated municipality must meet the standards for borough incorporation. Because the proposed consolidated Municipality would have the same boundaries as the existing Borough, it would meet most of the statutory incorporation standards. The population of the area is interrelated and integrated as to its social, cultural, and economic activities, and it is large and stable enough to support borough government. Most of the boundary length of the Borough is based on natural, geographic features and is thus consistent with the standards of the Constitution, the Legislature, and the Local Boundary Commission (LBC). However, the Petition does not satisfy the requirements of AS 29.05.031(a)(3), which requires the LBC to evaluate an area's economy. The LBC's regulation, 3 AAC 110.055, lists the four relevant factors to be considered in making this evaluation:

The economy of a proposed borough must include the human and financial resources necessary to provide essential borough services on an efficient, cost-effective level. In this regard, the commission will, in its discretion, consider relevant factors, including

- (1) the reasonably anticipated functions of the proposed borough;
- (2) the reasonably anticipated expenses of the proposed borough;
- (3) the reasonably anticipated income of the proposed borough, and its ability to collect revenue;

(4) the feasibility and plausibility of the anticipated operating budget through the third full fiscal year of operation.

Each of these factors is discussed below.

### **ANTICIPATED FUNCTIONS**

It is necessary to determine the Municipality's reasonably anticipated functions to provide a basis for determining the cost of the new government and to obtain some measure of the efficiency and cost effectiveness of the delivery and performance of these functions. Although the Petitioners propose to consolidate the Borough and the City, they actually propose very little change in the delivery of municipal services. See Exhibit 2. The Petitioners propose that the new Municipality, a second class borough,<sup>9</sup> exercise those areawide and nonareawide powers currently exercised by the Borough. Petitioners also propose that the Urban Service Area exercise the following powers currently exercised by the City:

1. Fire protection
2. Law enforcement
3. Environmental services
4. Building department
5. Engineering department
6. Public works department.

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<sup>9</sup> Petitioners do not explain why they have chosen a second class borough form of government, when the City is currently a home rule municipality which can exercise all legislative powers not prohibited by law or charter.

The Petitioners' transition plan states that "The Municipality will establish an Urban Service Area to provide, on a service area and nonareawide basis, all urban services now supplied by the City."<sup>10</sup> The Borough has made the following assumptions regarding this list of powers:

- Law enforcement includes both the police bureau and parking authority.
- Environmental services, which the City has ceased to exercise, will not be exercised.
- "Building department" means building permits and inspections, the function performed by the City building department.
- "Public works department" includes street lights and traffic signals, street maintenance, curbside trash pickup, property management and maintenance, storm drain and utilidor maintenance, and all other functions currently performed by the City's public works department, as indicated in the City budget.
- The Urban Service Area would continue to issue business licenses and permits, process traffic tickets, and fund the City's utility sale and land sale obligations.
- Cemeteries would become an areawide function, since they are available to all residents.

Finally, because Petitioners look to the ability of the "stable and respected Borough administration and Assembly" to "manage the few remaining City services more

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<sup>10</sup> Petitioners' Transition Plan, Section E, Page 3.

efficiently, effectively and economically,"<sup>11</sup> the Borough has assumed that the Borough's internal financial controls, procurement code, records management system, computer network, staffing levels and other administrative procedures that contribute to its respected and effective operations will continue.

As stated above, there is very little duplication of services between the City and the Borough. The only functions currently provided by both entities are solid waste collection (although the City provides a higher level of service by curbside pickup), emergency medical services (EMS), some health and social services, and economic development.<sup>12</sup> The City provides fire protection, street maintenance, and street lights, which the Borough only provides in service areas.

Exhibit 3 is an organizational chart of the proposed Municipality prepared for budget consolidation purposes. The rectangles of various colors represent departments and divisions of the current Borough. The ovals represent the functions of the current City of Fairbanks that would continue after consolidation.<sup>13</sup>

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<sup>11</sup> Petition, Exhibit A, p.2 (para #3.)

<sup>12</sup> However, as further discussed below, the consolidation of economic development and EMS is not without pitfalls.

<sup>13</sup> The green ovals show the City functions that would become part of the areawide powers of the new Municipality:

- Hotel tax distributions (because the hotel tax is an areawide revenue);
- Cemeteries (because they are available to all borough residents);
- Golden Heart Plaza (because parks are an areawide borough function)
- Health Center Maintenance (an areawide function); and
- Solid Waste Collections (at transfer stations), an areawide function.

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The blue ovals show the current City functions that would be nonarea-wide powers of the new Municipality:

- Economic development
- Emergency medical services.

The gray ovals show the current City functions that would be provided and paid for by the Urban Service Area:

- Police
- Fire
- Parking Authority
- Building inspections
- Engineering
- Street lights
- Service area property management
- Public works:
  - Streets
  - Maintenance of service area buildings
  - Curbside trash pick-up
  - Storm drain maintenance
  - Utilidor maintenance
  - Barricades, decorations, etc.
- Administration:
  - Service area commission
  - Business license and permit issuance
  - Traffic ticket processing
  - Utility sale and land sale obligations
- Municipal support services for service area functions:
  - Personnel and labor relations
  - Financial audit
  - Clerk duties (meeting advertisements, records, etc.)
  - Purchasing

*Footnote continued on next page.*



Of all the City's powers, only a few would become areawide services: the Fairbanks Health Center maintenance would become an areawide function, instead of the current shared arrangement; Golden Heart Plaza and the two cemeteries would become areawide; and the solid waste transfer stations would become areawide, but the Urban Service Area would provide curbside trash pickup.

Two City powers, economic development and emergency medical services, would become nonareawide powers of the new Municipality, but neither would result in an improved level of service.

- **Emergency medical services.** The Petitioners propose that the new Municipality will contract with the current City employees to provide emergency medical services. Legal issues of a municipality contracting with its own employees aside, this would result in no improvement in current service.
- **Economic development.** Economic development as a nonareawide power of the consolidated Municipality would result in a substantial loss of the tax revenue that is currently utilized for economic development in the

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Mail, copy and phones

Legal services

Fuel and Utilities

Curbside trash pickup billing and customer service

Computer services

Risk management

Financial services: accounting, treasury and budget

Vehicle maintenance, equipment and replacement.

City. Currently both the City and the Borough levy an areawide hotel bed tax. The Borough utilizes its bed tax revenues to pay for operation of the Carlson Activity Center, a parks and recreation facility which hosts concerts, conventions, and athletic events. The City distributes the majority of its hotel bed tax revenues to the Fairbanks Convention and Visitors Bureau and Fairbanks Industrial Development Corporation for economic development. (A portion is also distributed to other organizations.<sup>14</sup>) However, the hotel tax of the new Municipality is an areawide tax, and therefore must be used for areawide functions.<sup>15</sup> This therefore eliminates the opportunity for the new Municipality to fund economic development (a nonareawide power) with hotel tax revenues.<sup>16</sup> (Conversely, if the hotel tax was levied nonareawide, its revenues would not be available to support the Carlson Center, which is an areawide facility.)

Under the Petition, the only nonareawide revenues available to fund

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<sup>14</sup> City Resolution 3848 allocating the funds for the CY00 budget is included as Exhibit 4.

<sup>15</sup> AS 29.35.110:

Borough revenues received through taxes received on an areawide basis by the borough may be expended on general administrative costs and on areawide functions only. Borough revenues received through taxes collected on a nonareawide basis may be expended on general administrative costs and functions that render service only to the area outside all cities in the borough.

<sup>16</sup> For the same reason, these areawide tax revenues will not be able to be appropriated for some other current uses, including the service area Public Works or law enforcement.

economic development and organizations such as Fairbanks Convention and Visitors Bureau and Fairbanks Industrial Development Corp. would be the nonareawide property tax revenue of \$1,231,632,<sup>17</sup> which is significantly less than the City's current hotel tax revenues of \$2,500,000. Moreover, the entire nonareawide property tax revenue cannot be devoted to economic development, as nonareawide taxes must also fund emergency medical services.

#### **ANTICIPATED EXPENSES AND INCOME**

The second and third factors to be considered under 3 AAC 110.055 are the reasonably anticipated expenses and income of the proposed borough and its ability to collect revenue.

Expenses. Because there is so little duplication of services, and the City is currently understaffed by Borough standards, the expenses of the consolidated municipality would exceed the costs of the separate municipalities. While it is possible that a meaningful reorganization or reduction in services could result in long-term savings, the Petitioners' consolidation plan promises that services will stay the same. It should be obvious, especially in light of the City's current staffing levels and lack of duplication with Borough services, that the same functions and level of services would require at least the same number of employees.

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<sup>17</sup> .511 mills x \$2,410,238,785 assessed valuation, per the petition.

Petitioners claim that "most employee positions will be unaffected by the consolidation."<sup>18</sup> However, the one-page budget submitted by Petitioners includes only 11 of the 21 employees currently employed by the City in the departments of Clerk, Mayor (including personnel and purchasing), Law, Finance and Data Processing. Petitioners do not explain what will happen to the ten missing City employees or how the work that they are now performing will be accomplished under the proposed consolidation. Petitioners cite only four executive positions of "duplication" that would be combined by consolidation: clerk, attorney, finance office, personnel office and purchasing officer.<sup>19</sup> However, as discussed below, because most of the duties performed by these individuals would remain after consolidation, no personnel savings would result. In addition, additional management staff will be needed for the Urban Service Area functions.

Clerk. The City Clerk's office employs three people. Many of the duties that the City Clerk performs are not duplicated in Borough government, including business licenses and permits and traffic ticket processing. Since these functions would remain as part of the Urban Service Area, employees will be needed to perform them, at the expense of the Urban Service Area. Other duties that the City Clerk performs include cashier, distribution and receipt of bid documents, mail processing, and switchboard. Since the Urban Service Area would provide the

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<sup>18</sup> Transition plan, p.6.

<sup>19</sup> Transition plan, p. 7. The positions of City personnel Officer and City Purchasing Officer are held by a single employee.

services currently provided by the City, these support services would still be needed. If there is a service area board, someone will need to advertise its meetings and prepare agendas and minutes. So, while there will not be two people with the title of Municipal Clerk, all the different functions that both offices currently perform would still need to be staffed.<sup>20</sup>

Legal. The same is true of the Municipal Attorney. The City Attorney's office prosecutes the criminal cases initiated by the City Police. The attorneys and support staff assigned to that function would still be needed for the Urban Service Area. The City's risk management staff is part of the City Attorney's budget; since the Urban Service Area will continue with the police, fire, and other City services, risk management staff would still be required. These services will continue to generate a need for legal services. And, because the Petitioners intend that the new Municipality will inherit the City's existing union contracts, a labor relations attorney would still be needed. Although there would be only one position titled "Municipal Attorney," there would be no decrease in the total number of attorneys required unless there is a decrease in the functions that require legal services. In light of the legal issues raised by consolidation, a decrease in the need for legal services for the first several years of consolidation is improbable.

Purchasing. Currently, a single City employee is both the Personnel and Purchasing Officer. The Urban Service Area would still need equipment and

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<sup>20</sup> City and Borough elections have been conducted jointly for at least 20 years. The Borough Clerk programs the local elections; both entities use the same election boards.

supplies, so purchasing staff would still be needed. In fact, the proposed Municipality would require additional staff. The Borough's procurement code is based on the American Bar Association's Model Procurement Ordinance and requires solicited quotes even on small purchases. In contrast, the City Code authorizes departments to utilize limited purchase orders for purchases under \$10,000. In order to retain the Borough's "efficient, effective and economical" management, the consolidated Municipality should retain the Borough's procurement procedures, which will require an increase over the City's staffing levels.

Personnel. The Petition states that employees of the City and Borough will become employees of the Municipality, and most positions will be unaffected by consolidation. Personnel and Labor Relations staff will still be needed to deal with recruitment, payroll, grievances, negotiations and all other human resources needs.

Service Area Management. The Borough currently has 117 service areas, primarily fire protection service areas and road service areas. However, with only one exception, services in these areas are provided by independent contractors, not by Borough employees. Currently five Borough employees, in two small departments, the rural services division within the Department of Direct Services<sup>21</sup> and the Department of Emergency Operations,<sup>22</sup> administer \$5,250,000 in contracts (\$2 million for road service areas and \$3.25 million for five fire service areas,

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<sup>21</sup> 3.6 FTEs: one service area engineer, one secretary, and a combined total of 1.6 employees for other support and administration.

<sup>22</sup> 1.3 FTEs.

respectively). Their primary functions are contract administration and capital project management, not the direct provision of services.

The Urban Service Area proposed by Petitioners would transfer 40 City Fire Bureau employees, 57 Police Bureau employees, 6 building department employees, 34 public works employees, 16 engineering department employees, as well as various support services such as finance, legal, information services, etc. to the new Municipality. Obviously, this consolidation of over 170 employees with the Borough's 343 employees would require a corresponding increase in management. Although some personnel and functions could be absorbed into existing Borough departments, this number of employees could not simply report to one department director. Clearly there would be a need for an additional administrator and support staff, and possibly a service area board.

Petitioners note that the Assembly may provide for an elected or appointed board to supervise the furnishing of services in the Urban Service Area. The members who serve on this board would supervise the equivalent of a city government. It is anticipated that the members would serve as the responsive body for constituent input (through regular meetings), determine and recommend the proper level of services, and oversee the development of a recommended budget to the Borough Assembly. The Borough's proposed consolidation budget assumes a five-member elected board with compensation of \$600 per month, and the same medical and retirement benefits currently provided to the City Council and Borough Assembly.

Income. Exhibit 5 shows the existing City and Borough revenues and the revenues for the proposed Municipality. Some revenues from the City, including hotel taxes, garbage tipping fees, and emergency medical response fees, would become areawide or nonareawide revenue of the municipality. Service area property taxes, alcohol and tobacco sales taxes, and most City fees would remain service area revenues.

The Petition proposes an areawide tax rate of 13.775, plus an areawide solid waste collection rate of 1.166, plus a property tax rate in the Urban Service Area of 5.99 mills, for a total of almost 21 mills. (This is approximately the amount of the existing tax rates). If the statewide 10 mill initiative on the November ballot becomes law, the Municipality will have to reduce its property tax rate from the proposed areawide 13.775 mills to 10 mills,<sup>23</sup> and there will very little flexibility to impose a property tax on the Urban Service Area. The property tax rate from the Urban Service Area will decrease from a proposed 21 mills to less than half that rate.

Authority for a borough to levy municipal property taxes to support areawide, nonareawide, and service areas functions derives from AS 29.45.010(a). AS 29.45.010(c) requires that property taxes on real or personal property be assessed, levied, and collected as provided by statutes in AS 29.45.010 through AS 29.45.810. Because the 10 mill initiative would change three sections within that group of statutes, it would affect areawide, nonareawide and service area taxes. The

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<sup>23</sup> Under a 10 mill property tax cap, the Borough would experience a \$14.8 million dollar reduction in areawide tax revenue alone.



initiative would repeal and reenact AS 29.45.090 (Tax limitations). The effect of the initiative would be to limit areawide, nonareawide and service area ad valorem taxes to no more than 1% of the assessed value (presently limited to 3%) of property in the municipality. The 10 mill initiative would further limit the tax levy on any particular piece of property to no more than 1% of the value of that property. New AS 29.45.090(a) would provide:

A municipality may not, during any year, levy an ad valorem tax for any purpose in an amount in excess of one percent of the assessed value of property in the municipality, nor may it levy a tax on any particular piece of property in an amount in excess of one percent of the assessed value of that particular piece of property.

Although the intended meaning of the second clause in the quotation above is unclear, the 1% limitation on any particular piece of property would probably be interpreted to mean that the sum of all areawide, nonareawide, and service area taxes on one piece of property could not be over 1% of that property's assessed value. With that interpretation, both the Borough and the City of Fairbanks, being a separate municipality, could each impose separate taxes up to a 10 mill total. In contrast, the proposed Municipality would be subject to a total 10 mill limit.

The Petitioners claim that the 10 mill initiative is not part of their petition. However, when the petition anticipates a total property tax in the Urban Service Area of over 20 mills, there is obviously a large, potential and significant impact on the viability of the petition. If the 10 mill tax cap initiative becomes law, the proposed Municipality will have to reduce services or create additional revenue sources - other

than ad valorem real property taxes - to fund public services.<sup>24</sup> The Assembly could levy a sales and use tax, subject to voter ratification. However, most if not all of these methods would be more difficult and costly to administer and collect than real property taxes.

### **BUDGET FEASIBILITY**

The fourth criteria to be considered by the Commission when examining the resources of the proposed borough is the feasibility and plausibility of the anticipated operating budget through the third fiscal year of operation.<sup>25</sup> The Borough has reviewed the scant budget document included in the Petition as well as the budgets of the City and Borough. Because the Petitioners provided so little budget information, it is not easy to compare their budget to the existing City and Borough budgets.<sup>26</sup> Therefore, the Borough estimated an operating budget for the proposed consolidation and compared it to the Petitioners' budget. The results can be summarized as follows:

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<sup>24</sup> The existing Borough would also have to reduce its property tax levy to 10 mills, which would affect existing government services and service areas.

<sup>25</sup> The May 17, 2000 Petition does not include an operating budget for three future years of the consolidated municipality; its budgets are for the years 1998, 1999 and 2000.

<sup>26</sup> For example, Petitioners' budget reflects a budget of \$300,000 for the Urban Service Area Building Department, compared to the City's budget of \$465,700 for its Building Department.

Another example of the discrepancies in the Petitioners' budget is the "Charge Back to City S/A" of \$895,470 for Finance, which includes 6 employees. The City components of this line item include 9.5 employees and the following budgets:

*Footnote continued on next page.*

City CY2000 plus Borough FY2001 budgets <sup>27</sup>	<u>\$108,323,585</u>
Petitioners' FY 2000 budget	<u>\$ 97,501,310</u>
Projected 1 <sup>st</sup> year consolidation operating budget	108,497,912
1 <sup>st</sup> year transition costs	<u>5,118,105</u>
Combined 1 <sup>st</sup> year total	<u>\$113,616,017</u>

It is important to note that the City's CY2000 budget includes \$1.9 million dollars in expenditures of the City's hotel bed tax. However, neither the Petitioners' budget nor the Borough's projected consolidation budget include this amount, since the areawide hotel bed tax cannot be used for nonareawide economic development. Therefore, although the consolidation budget (before transition costs) appears close to the sum of the existing City and Borough budgets, there is a \$1.9 million dollar expenditure that is included in the existing budgets and deleted from the consolidation budget.

The Borough's projected consolidation budget, including its purpose and methodology for creating an operating budget for the proposed Municipality, is set

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Risk Management claims, training and insurance	\$ 685, 300
Risk Management administration	\$ 117,150
Information Systems (DP)	\$ 274,893
Finance Department budget	<u>\$ 412,508</u>
Total	\$1,489,851

Petitioners do not explain the \$500,000 difference.

<sup>27</sup> This total excludes Borough service areas.

out in Appendix B. The individual budget units of the City<sup>28</sup> and Borough were broken out into functional units (App. B, sections 3 - 9) and the powers of the proposed Municipality were charted (App. B, section 6). The Borough built an operating budget for the consolidated Municipality, based on the Borough's standard practices. Each department budget is included in Appendix B, Section 10.<sup>29</sup> If additional employees would be needed to provide services, the Borough's pay scales were used. If a position could be reduced or eliminated, the cost was reduced. Mill rates were then calculated for each taxing jurisdiction, based on current assessed values and the required tax revenues to support the consolidated Municipality. As the charts and tables in App. B, Sections 1 and 2, show, consolidation will lead to increased operating costs and mill rates.

All budgets affected by consolidation are supported by budget worksheets in App. B, Section 10.<sup>30</sup> The costs for the some of the functions performed by the departments of law, clerk, personnel and purchasing are explained above. In addition, the Borough's proposed consolidation budget includes additional costs for the clerk's records management, legal department support staff, computer services, direct services department support staff, financial services (accounting staff, risk

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<sup>28</sup> The City's budget manager assisted with this process. The City CY2000 budget, 1998 Comprehensive Annual Financial Report, and web page data (Ex. 6) were also used for information.

<sup>29</sup> Transition costs were budgeted separately, and are discussed below.

<sup>30</sup> The operating budgets of a few Borough departments (Assessing, Community Planning, Library, Land Management) would not be affected by consolidation.

management, and treasury/budget staff), general services department purchasing and support services, and the transportation department's vehicle maintenance and vehicle replacement fund. In addition, the Borough would create a new department for Urban Service Area Administration, including an Administrator, and clerical and collections staff.

To operate effectively, the Borough estimates that in the first year, consolidation would entail over \$7 million dollars in transition costs and increased operating costs.<sup>31</sup> In the second and third years, the consolidated Municipality would continue to incur transition costs of over \$750,000 in addition to increased operating expenses. The mill rate for City residents would increase from the current 21.785 to 23.395 in the first year of consolidation, and 22 mills in the second and third years. (The increase would be even greater if the new Municipality could fund City economic development.) Although the Petition claims that there will be significant savings that will result in "improved public safety for all Borough residents and visitors through safer streets, sidewalks and neighborhoods," there is no support for this statement.<sup>32</sup> Consolidation would result in increased costs to taxpayers, especially current City residents, but no increase in efficiency or effectiveness.

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<sup>31</sup> The total increase is offset by the areawide hotel bed tax revenue and the decrease in economic development expenditures.

<sup>32</sup> Law enforcement will only be provided in the Urban Service Area, just as it is now provided only in the City of Fairbanks.

## **TRANSITION**

The Local Boundary Commission has recognized the need that a petition include a practical plan in which the proposed municipal government demonstrates its intent and capability to extend essential borough services into the territory proposed for change and it has set this out as a requirement in 3 AAC 10.900.

(a) A petition for incorporation, annexation, merger or consolidation must include a practical plan in which the municipal government demonstrates its intent and capability to extend essential city or essential borough services into the territory proposed for change in the shortest practicable time after the effective date of the proposed change. A petition for detachment or dissolution must include a practical plan demonstrating the transition or termination of municipal services in the shortest practicable time after detachment.

(b) A petition for a proposed action by the commission must include a practical plan for the assumption of all relevant and appropriate powers, duties, rights, and functions presently exercised by an existing borough, city, service area, or other entity located in the territory proposed for change. The plan must be prepared in consultation with the officials of each existing borough, city or service area, and must be designed to effect an orderly, efficient, and economical transfer within the shortest practicable time, not to exceed two years after the effective date of the proposed change.

(c) A petition for a proposed action by the commission must include a practical plan for the transfer and integration of all relevant and appropriate assets and liabilities of an existing borough, city, service area or other entity located in the territory proposed for change. The plan must be prepared in consultation with the officials of each existing borough, city, or service area affected by the change, and must be designed to effect an orderly, efficient,

and economical transfer within the shortest practicable time, not to exceed two years after the date of the proposed change. The plan must specifically address procedures that ensure that the transfer and integration occurs without loss of value in assets, loss of credit reputation, or a reduced bond rating for liabilities.

(d) Before approving a proposed change, the commission will, in its discretion, require that all affected boroughs, cities, service areas, or other entities execute an agreement prescribed or approved by the commission for the assumption of powers, duties, rights, and functions, and for the transfer and integration of assets and liabilities.

#### **THE PETITION DOES NOT INCLUDE AN ADEQUATE TRANSITION PLAN**

Contrary to the requirement of 3 AAC 10.900(a), the petition does not provide a practical plan demonstrating a transition of existing services to be performed by the new government.

**Errors in Petitioners' Plan.** Petitioners' schedule for integration of assets, powers and duties does not comply with the requirements in regulation or statute in the following areas.

Municipal ordinances. The Petitioners' transition plan states that all ordinances will continue in effect until superseded by the new municipality. The plan also sets out a procedure for review by the mayor, designation by the mayor of which code applies, and either tacit approval by the Assembly or adoption of a different interpretation by ordinance. This procedure does not comply with statutory requirements.

AS 29.06.160 states that after consolidation, the ordinances of the former municipalities remain in force in their respective territories until superseded by the action of the new municipality. An ordinance can only be superseded by another ordinance. AS 29.25.020 sets out the procedure for adoption of ordinances by the governing body. The Petitioners' proposal for designation by the mayor does not comply with these statutory requirements.

Assets, obligations and contracts. The transition plan states that assets of the City, except the permanent fund, shall transfer to the consolidated municipality. However, AS 29.06.160 states that when two municipalities consolidate, the newly incorporated municipality succeeds to the rights, powers, duties, assets and liabilities of the consolidated municipalities. The Petitioners' attempt to exempt the City's permanent fund from this statutory transfer is contrary to law. Clearly under state law the consolidated Municipality would succeed to the City's permanent fund. Furthermore, it would not be equitable for the new Municipality to be the successor to the City's liabilities, whether potential legal or environmental claims, capital needs, retirement obligations, etc., while most of the current City revenues and the permanent fund remain an asset of the Urban Service Area.

Employees. The transition plan states that "pension plans, retirement plans and other benefits for current employees under collective bargaining agreements, personnel rules or other legal or contractual provisions . . . will not be changed or diminished."<sup>33</sup> However, according to the State of Alaska's Division of Retirement

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<sup>33</sup> Transition plan, p.6.



and Benefits, the Borough's current contract for federal Social Security would terminate. See Exhibit 7. (The Fairbanks North Star Borough School District is also enrolled in Social Security under the Borough's 218 agreement.)<sup>34</sup> The City does not have a 218 agreement and therefore does not participate in Social Security. Therefore, there will be a change in benefits for either the City employees or the Borough/School District employees: either the new Municipality **will not** have a 218 agreement, and will not participate in Social Security (a change for Borough/School District employees), or the new Municipality **will** have a 218 agreement (a change for City employees.)

Petitioners also assert that the new Municipality will inherit the existing union contracts (two for Borough employees and six for City employees). It would not be cost-effective or efficient for a municipality to administer eight different contracts, especially when employees in the same office are represented by different unions, or are not represented. For example, some employees in the Borough clerks', public works and finance offices are represented by APEA, while some employees in the City clerks', public works, and finance offices are represented by IBEW. If these offices are merged, which contract will govern seniority, rates of pay, benefits and work rules?<sup>35</sup> An employee may work in the same office at the same job as another employee, with the same job title, but with different salary, benefits, and retirement

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<sup>34</sup> Social Security Act, 42 USC 418, Section 218.

<sup>35</sup> The same issues will apply to the general government units of the City and the Borough. Although both are represented by APEA, the contracts with the City and Borough are different.

plans, because they are represented by different unions. How will their supervisor manage employees with different work rules and disciplinary procedures? The result will be chaotic.

Executive plan. The Petitioners propose that the new mayor will prepare plans of organization of the executive branch, which will become law unless rejected by the Assembly within specified 20 day periods.<sup>36</sup> However, AS 29.25.010 requires that the governing body use an ordinance to establish, alter, or abolish municipal departments. The ordinance procedure is governed by AS 29.25.020. This portion of the transition plan is defective and does not comply with state law.

Election of Assemblymembers. The Petition (page 7) designates the length of initial Assembly terms. This is contrary to Alaska law, which provides that a candidate for an initial borough assembly is not required to identify a specific seat by name in designating the office for which he or she seeks election (6 AAC 27.160) and that the initial elected members of the governing body shall determine by lot the length of their terms of office so that a proportionate number of terms expire each year (AS 29.05.120) .

**Other Transition Concerns.** There are also other transition concerns:

- Petitioners cannot demonstrate the capability to provide municipal services if the 10 mill initiative becomes law.
- Petitioners have not analyzed the effect of consolidation on the City and Borough tax caps.

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<sup>36</sup> Transition plan, p. 7.

- Petitioners have not adequately budgeted for the transition costs of consolidation.
- But for their similarity with the existing City boundaries, there is no showing that the boundaries of the proposed Urban Service Area are appropriate.

**Capability to Provide Municipal Services.** The Local Boundary

Commission regulations require that the proposed borough government have not only the intent but that it also have the capability to extend essential borough services into the territory proposed for change. Examination of the Petitioners' proposed budget demonstrates that without adequate revenue there will be insufficient funds to continue services at anywhere near the existing or even an acceptable level. The Petition proposes a property tax rate in the Urban Service Area of almost 21 mills. If the statewide 10 mill initiative on the November ballot becomes law, the Municipality will have to reduce its property tax rate to 10 mills.<sup>37</sup> The property tax rate in the Urban Service Area will decrease from a proposed 21 mills to less than half that rate.

**Consolidation May Affect the City and Borough Tax Caps.** Both the City

and Borough have tax caps approved by the voters in their respective jurisdictions. The City tax cap<sup>38</sup> is part of its charter and can be amended only by vote of the City

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<sup>37</sup> Existing bond debt payments are not included in the 10 mill limit. Under a 10 mill property tax cap, the Borough would experience a \$14.8 million dollar reduction in areawide tax revenue alone.

<sup>38</sup> City Charter, Section 6.5.

residents. The Borough tax cap<sup>39</sup> was initiated by petition and therefore cannot be modified or negated at this time.<sup>40</sup> AS 29.26.190. The tax caps each limit the amount of tax revenue using a formula that is based on the prior year's tax levy. Petitioners have not addressed the affect that consolidation will have on the tax caps, and whether the new Assembly will have the legal ability to modify or repeal the tax cap provisions. State law does not appear to address this issue.

If the tax caps can be superseded by action of the new Assembly, then the voters have lost the ability they presently have to limit tax revenues, and their ability to self-govern is diminished. If the tax caps cannot be superseded, the Assembly may not be able to raise enough tax revenue to pay the first year operating and transition costs of the consolidated Municipality, and either other funds of the Borough or City would be depleted to pay transition costs, or an orderly transition would be delayed for lack of funds to upgrade computer systems, combine space, etc. None of these options is in the best interests of the residents of either the City or the Borough.

**Petitioners Have Not Budgeted For Transition Costs.** It is obvious that costs would be incurred in the consolidation of two government entities, one with 174 employee positions and a \$20.2 million dollar budget; and the other with 343 positions and a \$86.8 million dollar budget. The Borough estimates that transition

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<sup>39</sup> FNSB 3.08.141-.142.

<sup>40</sup> The Borough tax cap initiative was most recently on the October 1998 ballot, and is expected to be on the October 2000 ballot. (An application for an initiative petition was filed with the Borough Clerk on July 12, 2000.)

costs will exceed \$5 million dollars. Some of the transition issues are summarized in App. B, Section 2. Transition costs are further itemized in App. B, section 11.

**Hard transition costs.** Some transition costs can be identified and assigned a specific dollar amount. The largest of these transition costs are as follows:

Space for staff. In order for a consolidated government to operate efficiently, employees of a department should be located in the same facility. There are currently 43 employees in City Hall and approximately 150 employees in the Borough Administrative Center (BAC). Over 20 City employees would have to relocate from the departments of finance, clerk, law, computer services, personnel, purchasing, etc. to be located in the same work area with their Borough counterparts. Because the BAC is at full capacity, many Borough employees and even departments would have to be shifted and reconfigured to accommodate additional employees in each department's work area. In addition, one or more departments and at least 20 employees would have to relocate from the BAC to another facility in order to make space for additional employees within the BAC.<sup>41</sup> A suitable facility would be needed for the employees who cannot be housed in the Borough Administrative Center. There will be additional costs involved for this

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<sup>41</sup> The costs of constructing/renovating new space and reconfiguring existing space are included in the Public Works transition budget. As discussed below, the former City employees would also need computer workstations that are compatible with the Borough network. This consolidation of personnel will increase the first year budget due to the cost of movers, phone lines, compatible office equipment and reconfiguration of space. Some of these costs are reflected in one budget (i.e. communications expenses in General Services) and other costs are included in the budgets of each affected department.

facility, as the Borough Administrative Center is at full capacity, and City Hall is in need of major renovation.

The City of Fairbanks administration is currently located in the former Old Main School, whose original construction was started in 1932 by the Works Progress Administration (WPA). When newer schools were constructed, this building was utilized in the 1980's as the administration building for the Fairbanks North Star Borough School District. After the District moved to a newer building, the property reverted to the City and is now used as City Hall. Even in the 1980's there were numerous problems with the building, including inadequate electrical, heating and ventilation systems and fire code issues. Exhibit 8 contains several documents detailing the deficiencies of Old Main School and the cost of the needed improvements. In 1985, the cost of rehabilitation, including construction and design costs, was estimated at \$7,913,412 by John Graham and Company.<sup>42</sup> In today's dollars, the cost of this project would be over \$12,000,000.

A 1989 inspection by the City Building Department and Fire Department yielded a lengthy list of code violations. The City Building Official's 1989 inspection report stated:

the exiting system for the building is convoluted and awkward. Fire resistive compartmentation is not provided either horizontally or vertically throughout the building.

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<sup>42</sup> GDM & Associates evaluated the report and concluded that the cost would be higher.

The electrical and mechanical support systems have deteriorated and have become overloaded and in some cases obsolete; **replacement of the entire electrical and mechanical support systems is appropriate and is further supported by previous studies.**

Obviously, it has been well-known for years that the building is in need of substantial improvements. While the City has done some work on the building (improved handicapped access and a new roof, for example), it has not yet undertaken the needed major rehabilitation, such as replacement of the electrical and mechanical support systems.<sup>43</sup> Although the City is currently occupying the building, the cost of the renovations cannot be deferred forever.<sup>44</sup>

In summary, the employees of the consolidated Municipality would need office space. Some, but not all, could be accommodated in the Borough Administrative Center, although it would require a considerable rearrangement to achieve an efficient consolidation of personnel. The transition budget includes the cost of space reconfiguration as well as new or renovated space for the employees who cannot be accommodated in the BAC.

Vehicle fleet maintenance consolidation. The transition budget also includes the cost of new vehicle storage space so that Borough and City vehicle maintenance shops would be located together. Currently the City and the Borough each have vehicle maintenance facilities. If the entities were consolidated, it would be more

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<sup>43</sup> The City's goal is to completely restore and renovate the building.

<sup>44</sup> The U.S. Department of Justice has recently demanded that the City improve access in City Hall and other facilities. Exhibit 9.

efficient to move some Borough mechanics to the City's facility. In order to accomplish this conversion, additional warm storage space would be needed at the City facility.

Computer services consolidation. Computer equipment that is compatible with and linked to the Borough network would be critical to a smooth transition. The City and the Borough use different computer systems which are not compatible with each other. Upgrading the City's equipment and software would be a major effort and expense.

Records management. The Borough Clerk has reviewed the status of records management at the City and has estimated the costs to centralize suitable storage of City records and microfilm or scan paper documents as appropriate.<sup>45</sup> The Clerk will also require funding for a new municipal code and additional Accu-vote equipment and memory cards to conduct elections for the Urban Service Area board.

Financial services consolidation. Substantial effort will need to be put into the inventorying, tagging and valuation of the City's fixed assets and incorporating this data into the fixed asset system of the new municipality. The City's management letter from their auditors indicates problems in the fixed asset area. Financial data of the two entities will need to be combined and new beginning balances will need to be calculated for the general ledger system and the intergovernmental cost allocation system will need to be modified for the new organization. Additional

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<sup>45</sup> App. B, Section 11.



professional level assistance will also be needed for the first full year-end closing and audit of the new entity. City staff will need to be trained on the new financial system. Professional level assistance will also be needed to establish effective municipality-wide cash management policies, procedures, manuals, and training, and to assist with the review, amendment, re-negotiation or negotiation of various financial services contracts.

Other moving expenses. The consolidation of personnel will increase the first year budget due to the cost of movers, phone lines, and compatible office furniture and equipment, which are reflected in the budgets of various departments, including General Services and Public Works.

Change of name. The Petition refers to the consolidated government as the "Municipality of Fairbanks" although it also states that the name Fairbanks North Star Borough will be retained. If the name is changed from Fairbanks North Star Borough, there are numerous facility signs, vehicle decals, uniforms, office forms, letterhead, business cards, identification cards, schedules, etc. that would have to be replaced for the Borough as well as the Fairbanks North Star Borough School District. Some of these expenses would be incurred in any event, in transferring City assets and employees, including the City police and fire departments, to the consolidated Municipality.

"SOFT" TRANSITION COSTS: Other transition costs are more difficult to estimate, but they would cost money to resolve. These include:

Labor agreement amendments. As discussed above, Petitioners propose that existing collective bargaining agreements will not be changed. The result, however, would be a multitude of differing pay rates and benefits, which would be confusing and complex. The differing benefits for the same types of positions would also likely cause internal strife and morale problems. In addition to these and other labor issues, the different contract provisions and pay scales would somehow have to be implemented in a payroll system, and some, if not all, of the disparities would need to be resolved through amendment of the labor agreements. These would be large, complex tasks.

Moreover, it may be legally permissible for the consolidated Municipality to reject application of the Public Employment Relations Act (PERA), AS 23.40.070-.260, which confers upon public employees the right to organize and bargain collectively with their employers. For example, when the City of Anchorage and the Greater Anchorage Area Borough merged into a single home rule municipality in 1975, the new Municipality rejected application of PERA to its employees.<sup>46</sup>

Other financial issues. Government entities are currently facing a major change in how they are required to report financial data. The new entity will not only have financial reporting issues related to consolidation, but it will be facing the implementation of a new reporting model, making the transition even more expensive, difficult, and complex. Governments are required to have federally

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<sup>46</sup> Anchorage Municipal Employees Assn. V. Municipality of Anchorage, 618 P.2d 575 (Alaska 1980).

approved intergovernmental cost plans for charging services between governmental funds required for reporting purposes. A consolidation would be such a major change that it dictates the construction of a new system which can reasonably calculate the cost of actual services rendered to the new urban service area.

City and Borough contracts. All contracts of the city and the borough would need to be reviewed for continuation, amendment, re-negotiation, cancellation, requests for new bids/proposals, or negotiation of new contracts. Banking and investment contracts would require a lot of work in just amending signatory authorities even if the contracts were not required to be amended, renegotiated, or put through request for proposal processes. Entity name changes are also a major consideration in the cost of transition.

Risk management/assessment. City facilities and operations will need to be assessed for risk purposes and appropriate adjustments in insurance coverage or other matters will need to be made. The City is currently uninsured for general and auto liability and the claims appear to be optimistically reserved. The City's and Borough's claims systems will need to be integrated. Job site hazard analysis will need to be done and former City functions will need to be incorporated into the Loss Prevention and Safety Program.

**Urban Service Area Boundaries.** The boundaries of the proposed Urban Service Area are identical to the boundaries of the City. However, the boundaries include Fort Wainwright, where the Urban Service Area would not provide any services. In addition, there are other parts of urban Fairbanks which might benefit

from law enforcement, curbside trash pick-up, and other services. For example, the current City boundaries are approximately the same as the former Municipal Utilities System's sewer and water service. If access to utility service is used as an indication of a more densely populated area, the service area boundaries could be expanded to include other parts of Fairbanks served by water utilities.

## **SUMMARY**

At the present time, the City of Fairbanks and the Fairbanks North Star Borough are each organized to provide the services that the residents in the respective areas desire, within the tax caps that the residents of each area have imposed.

- The Borough provides the areawide services of education, library, land use planning, solid waste disposal, parks and recreation, flood control, animal control, public transportation, health and social services, and other services that are best provided on a wide-scale basis. Other services that are best provided on a smaller scale basis, such as fire protection and road maintenance, are provided in Borough service areas.
- The City provides law enforcement, public works maintenance, fire protection, building inspections, curbside trash pick-up, and other services in an area with a higher population density.

There is very little duplication of service provided by the two governments. While perhaps a service could be provided more effectively by the Borough on an areawide basis (such as solid waste transfer stations), overall, the services that are provided by each government are at the level of services that the residents have chosen, by either voter approval of the service or a limitation on tax revenues.

- City residents, through their Charter and their elected City Council, have access to the services they desire at the tax rate they are willing to pay.

- Borough residents, who generally live in less densely populated areas than the City, receive the services mandated by law or authorized by the voters. Borough citizens can voice their concerns about these services to the members of the Borough Assembly, who are elected to represent all Borough residents.

Consolidation of the two governments would reduce the level of self-government for residents of the City and the Borough. Instead of a home rule charter and a City Council that is directly responsible for legislating the level of both services and taxation, City residents would have a service area board or administrator without the power of appropriation or taxation. Borough residents would have a Borough Assembly with the additional duties of appropriation and taxation for a large, multi-service urban service area, thus diluting their ability to focus on borough-wide issues. There are no guarantees that the Borough Assembly will choose to spend the City Permanent Fund on the projects that are most important to City residents, when the Assembly must respond to the needs of the whole Borough.

Consolidation will have a significant negative effect on the economic development organizations that currently receive funding from the City's hotel bed tax. Because the hotel tax will be an areawide tax, and economic development will be a nonareawide power, the consolidated municipality will be prohibited by law from distributing hotel bed tax funds for economic development.

While the areawide hotel bed tax revenues can be used by the consolidated Municipality to reduce property taxes, there will be no savings in operating costs for

a consolidated government, because there is so little duplication of services. In addition, the transitional costs of combining two different entities, with different duties, labor agreements, codes of ordinances, computer technology, financial controls, records management procedures, purchasing systems, etc., far exceed whatever small benefit that might be gained through consolidation.

Moreover, any change in City services can be more effectively achieved through other methods. For example, the City can transfer solid waste collection powers to the Borough, as the City of North Pole has done. Or City voters can decide to devote more resources to additional staff to increase financial controls, records management, or any other improvements they deem necessary. Simply shifting the responsibility for services from one government to another, complete with existing employees and labor contracts, will not improve the level of service without also increasing the cost.

Finally, if the 10 mill property tax cap becomes law, the City is better situated as a separate entity than as a service area of a consolidated government. The City can continue to impose its property tax separate from the tax levied by the Borough. The Borough cannot be expected to levy any significant portion of its 10 mill limit for service area functions when it must fund its mandatory functions of education, tax assessment and collection, and land use planning, as well as voter-approved areawide services such as library, animal control, social services pass-through grants, and parks and recreation, within the 10 mill cap.

## **CONCLUSION**

The proposed consolidation is contrary to the best interests of the Borough, the City, and the residents. The petition must be denied.

RESPECTFULLY SUBMITTED this \_\_\_\_ day of July, 2000.

FAIRBANKS NORTH STAR BOROUGH

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